

Appellate Docket Number: 05-19-00397-CR

Appellate Case Style: Stoyan K. Anastassov

Vs. State of Texas

Companion Case: 05-19-00396-CR

FILED IN  
5th COURT OF APPEALS  
DALLAS, TEXAS  
4/9/2019 12:13:47 AM

LISA MATZ  
Clerk

Amended/corrected statement: ☐

### DOCKETING STATEMENT (Criminal)

Appellate Court: 5th Court of Appeals

(to be filed in the court of appeals upon perfection of appeal under TRAP 32)

#### I. Appellant

First Name: Stoyan

Middle Name: K.

Last Name: Anastassov

Suffix: Mr.

Appellant Incarcerated? ☒ Yes ☐ No

Amount of Bond:

Pro Se: ☐

#### II. Appellant Attorney(s)

☒ Lead Attorney

First Name: Michael

Middle Name:

Last Name: Mowla

Suffix:

☒ Appointed ☐ Retained ☐ District Attorney ☐ Public Defender

Firm Name: Michael Mowla, PLLC

Address 1: P.O. Box 868

Address 2:

City: Cedar Hill

State: Texas

Zip+4: 75106

Telephone: 972-795-2401

ext.

Fax: 972-692-6636

Email: michael@mowlalaw.com

SBN: 24048680

Add Another Appellant/  
Attorney

III. Appellee	IV. Appellee Attorney(s)
First Name: <input style="width: 90%;" type="text" value="State of Texas"/> Middle Name: <input style="width: 90%;" type="text"/> Last Name: <input style="width: 90%;" type="text"/> Suffix: <input style="width: 20%;" type="text"/> Appellee Incarcerated? <input type="checkbox"/> Yes <input type="checkbox"/> No Amount of Bond: <input style="width: 60%;" type="text"/> Pro Se: <input type="radio"/>	<input checked="" type="checkbox"/> Lead Attorney First Name: <input style="width: 90%;" type="text" value="John"/> Middle Name: <input style="width: 90%;" type="text"/> Last Name: <input style="width: 90%;" type="text" value="Creuzot"/> Suffix: <input style="width: 20%;" type="text"/> <input type="checkbox"/> Appointed <input type="checkbox"/> Retained <input checked="" type="checkbox"/> District Attorney <input type="checkbox"/> Public Defender Firm Name: <input style="width: 90%;" type="text" value="Dallas County District Attorney"/> Address 1: <input style="width: 90%;" type="text" value="133 N. Riverfront Blvd., LB 19"/> Address 2: <input style="width: 90%;" type="text"/> City: <input style="width: 90%;" type="text" value="Dallas"/> State: <input style="width: 20%;" type="text" value="Texas"/> Zip+4: <input style="width: 20%;" type="text" value="75207"/> Telephone: <input style="width: 20%;" type="text" value="(214) 653-3625"/> ext. <input style="width: 20%;" type="text"/> Fax: <input style="width: 20%;" type="text" value="(214) 653-3643"/> Email: <input style="width: 90%;" type="text" value="DCDAAppeals@dallascounty.org"/> SBN: <input style="width: 20%;" type="text" value="05069200"/> <span style="border: 1px solid black; padding: 2px; float: right;">Add Another Appellee/ Attorney</span>
<b>V. Perfection Of Appeal, Judgment And Sentencing</b>	
Nature of Case (Subject matter or type of case): <input style="width: 90%;" type="text" value="Sex Offenses"/> Type of Judgment: <input style="width: 90%;" type="text" value="Jury Trial"/> Date trial court imposed or suspended sentence in open court or date trial court entered appealable order: <input style="width: 40%;" type="text" value="02/28/2019"/> Offense charged: <input style="width: 90%;" type="text" value="Indecency with a Child by Contact"/> Date of offense: <input style="width: 20%;" type="text" value="12/15/2011"/> Defendant's plea: <input style="width: 90%;" type="text" value="Not Guilty"/> If guilty, does defendant have the trial court's certificate to appeal? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Was the trial by: <input checked="" type="checkbox"/> jury or <input type="checkbox"/> non-jury? Date notice of appeal filed in trial court: <input style="width: 20%;" type="text" value="03/27/2019"/> If mailed to the trial court clerk, also give the date mailed : <input style="width: 40%;" type="text"/> Punishment assessed: <input style="width: 40%;" type="text" value="3 years TDCJ"/> Is the appeal from a pre-trial order? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Does the appeal involve the constitutionality or the validity of a statute, rule or ordinance? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>VI. Actions Extending Time To Perfect Appeal</b>	
Motion for New Trial: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No   If yes, date filed: <input style="width: 20%;" type="text" value="03/27/2019"/> Motion in Arrest of Judgment: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No   If yes, date filed: <input style="width: 20%;" type="text"/> Other: <input type="checkbox"/> Yes <input type="checkbox"/> No   If yes, date filed: <input style="width: 20%;" type="text"/> If other, please specify: <input style="width: 90%;" type="text"/>	
<b>VII. Indigency Of Party: (Attach file-stamped copy of motion and affidavit)</b>	
Motion and affidavit filed: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA   If yes, date filed: <input style="width: 20%;" type="text" value="03/27/2019"/> Date of hearing: <input style="width: 20%;" type="text" value="03/27/2019"/> <input type="checkbox"/> NA Date of order: <input style="width: 20%;" type="text" value="03/27/2019"/> <input type="checkbox"/> NA Ruling on motion: <input checked="" type="checkbox"/> Granted <input type="checkbox"/> Denied <input type="checkbox"/> NA   If granted or denied, date of ruling: <input style="width: 20%;" type="text" value="03/27/2019"/>	

### VIII. Trial Court And Record

Court: 292nd District Court

County: Dallas

Trial Court Docket Number (Cause no): F1550350

Trial Court Judge (who tried or disposed of the case):

First Name: Brandon

Middle Name:

Last Name: Birmingham

Suffix:

Address 1: 133 N. Riverside Blvd.

Address 2:

City: Dallas

State: Texas Zip + 4: 75207

Telephone: (214) 653-5882 ext.

Fax: (214) 653-2861

Email: Jessica.Esparza@dallascounty.org

#### Clerk's Record:

Trial Court Clerk: ☒ District ☐ County

Was clerk's record requested? ☒ Yes ☐ No

If yes, date requested: 04/01/2018

If no, date it will be requested:

Were payment arrangements made with clerk? ☒ Yes ☐ No

#### Reporter's or Recorder's Record:

Is there a reporter's record? ☒ Yes ☐ No

Was reporter's record requested? ☒ Yes ☐ No

Was the reporter's record electronically recorded? ☐ Yes ☒ No

If yes, date requested: 04/01/2018

Were payment arrangements made with the court reporter/court recorder? ☒ Yes ☐ No

☒ Court Reporter ☐ Court Recorder

☒ Official ☐ Substitute

First Name: Peri

Middle Name:

Last Name: Wood

Suffix:

Address 1: 133 N. Riverside Blvd.

Address 2:

City: Dallas

State: Texas Zip + 4: 75207

Telephone: (214) 653-5883 ext.

Fax: (214) 653-2861

Email: periwood@gmail.com

### 1X. Related Matters

List any pending or past related appeals before this or any other Texas appellate court by court, docket number, and style.

Docket Number: 05-19-00396-CR

Court: 5th Court of Appeals

Style: Stoyan K. Anastassov

Vs. State

### X. Signature

Signature of counsel (or Pro Se Party)

Date: 04/09/2019

Printed Name:

State Bar No: 24048680

Electronic Signature: /s/ Michael Mowla  
(Optional)

Name: Michael Mowla

### XI. Certificate of Service

The undersigned counsel certifies that this docketing statement has been served on the following lead counsel for all parties to the trial court's order or judgment as follows on 04/09/2019 .

Signature of counsel (or pro se party)

Electronic Signature: /s/ Michael Mowla  
(Optional)

State Bar No.: 24048680

Person Served:

Certificate of Service Requirements (TRAP 9.5(e)): A certificate of service must be signed by the person who made the service and must state:

- (1) the date and manner of service;
- (2) the name and address of each person served, and
- (3) if the person served is a party's attorney, the name of the party represented by that attorney

Please enter the following for each person served:

Date Served: 04/09/2019

Manner Served: eServe

First Name: John

Middle Name:

Last Name: Creuzot

Suffix:

Law Firm Name: Dallas County District Attorney

Address 1: 133 N. Riverfront Blvd, LB 19

Address 2:

City: Dallas

State: Texas Zip+4: 75207

Email: DCDAAppeals@dallascounty.org



CASE NO. F-1550350-V Count No.

INCIDENT NO./TRN: 9191438284

THE STATE OF TEXAS

V.

STOYAN KALINOV ANASTASSOV

STATE ID NO. TX06756883

§  
§  
§  
§  
§  
§  
§

IN THE 292nd JUDICIAL DISTRICT

COURT

DALLAS COUNTY, TEXAS

**JUDGMENT OF CONVICTION BY JURY**

Judge Presiding:	Brandon Birmingham	Date Sentence Imposed:	2/28/2019
Attorney for State:	BRANDIE WADE	Attorney for Defendant:	TOM PAPPAS
Offense for which Defendant Convicted: INDECENCY WITH CHILD SEXUAL CONTACT			
Charging Instrument: INDICTMENT		Statute for Offense: 21.11(a)(1) Penal Code	
Date of Offense: 12/15/2011		Plea to Offense: NOT GUILTY	
Degree of Offense: 2ND DEGREE FELONY			
Verdict of Jury: GUILTY		Findings on Deadly Weapon: N/A	
1 <sup>st</sup> Enhancement Paragraph:	N/A	Finding on 1 <sup>st</sup> Enhancement Paragraph:	N/A
2 <sup>nd</sup> Enhancement Paragraph:	N/A	Finding on 2 <sup>nd</sup> Enhancement Paragraph:	N/A
Punishment Assessed by: JURY		Date Sentence Commences: (Date does not apply to confinement served as a condition of community supervision.) 2/28/2019	
Punishment and Place of Confinement: 3 YEARS INSTITUTIONAL DIVISION, TDCJ			
THIS SENTENCE SHALL RUN: CONCURRENT.			
<input type="checkbox"/> SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR (The document setting forth the conditions of community supervision is incorporated herein by this reference.)			
<input type="checkbox"/> Defendant is required to register as sex offender in accordance with Chapter 62, CCP. (For sex offender registration purposes only) The age of the victim at the time of the offense was N/A			
Fine:	Court Costs:	Restitution:	Restitution Payable to:
\$ 10,000.00	\$ 599.00	\$ N/A	(See special finding or order of restitution which is incorporated herein by this reference.)
Was the victim impact statement returned to the attorney representing the State? N/A			
(FOR STATE JAIL FELONY OFFENSES ONLY) Is Defendant presumptively entitled to diligent participation credit in accordance with Article 42A.559, Tex. Code Crim. Proc.? N/A			
Total Jail Time Credit:	If Defendant is to serve sentence in county jail or is given credit toward fine and costs, enter days credited below.		
5 DAYS	N/A DAYS NOTES: N/A		

This cause was called for trial by jury and the parties appeared. The State appeared by her District Attorney as named above.

**Counsel / Waiver of Counsel (select one)**☒ Defendant appeared with counsel.☐ Defendant appeared without counsel and knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

☐ Defendant was tried in absentia.

Both parties announced ready for trial. It appeared to the Court that Defendant was mentally competent to stand trial. A jury was selected, impaneled, and sworn, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and ORDERED it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

☒ **Jury.** Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.

☐ **Court.** Defendant elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

☐ **No Election.** Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

In accordance with the jury's verdict, the Court ADJUDGES Defendant GUILTY of the above offense. The Court FINDS that the Presentence Investigation, if so ordered, was done according to the applicable provisions of Subchapter F, Chapter 42A, Tex. Code Crim. Proc.

The Court ORDERS Defendant punished in accordance with the jury's verdict or Court's findings as to the proper punishment as indicated above. After having conducted an inquiry into Defendant's ability to pay, the Court ORDERS Defendant to pay the fine, court costs, and restitution, if any, as indicated above.

Punishment Options (select one)

☒ **Confinement in State Jail or Institutional Division.** The Court ORDERS the authorized agent of the State of Texas or the County Sheriff to take and deliver Defendant to the Director of the Correctional Institutions Division, TDCJ, for placement in confinement in accordance with this judgment. The Court ORDERS Defendant remanded to the custody of the County Sheriff until the Sheriff can obey the directions of this paragraph. Upon release from confinement, the Court ORDERS Defendant to proceed without unnecessary delay to the District Clerk's office, or any other office designated by the Court or the Court's designee, to pay or to make arrangements to pay any fine, court costs, and restitution due.

☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court ORDERS Defendant committed to the custody of the County Sheriff immediately or on the date the sentence commences. Defendant shall be confined in the county jail for the period indicated above. Upon release from confinement, the Court ORDERS Defendant to proceed without unnecessary delay to the District Clerk's office, or any other office designated by the Court or the Court's designee, to pay or to make arrangements to pay any fine, court costs, and restitution due.

☐ **Fine Only Payment.** The punishment assessed against Defendant is for a FINE ONLY. The Court ORDERS Defendant to proceed immediately to the District Clerk's office, or any other office designated by the Court or the Court's designee, to pay or to make arrangements to pay the fine, court costs, and restitution ordered by the Court in this cause.

☐ **Confinement as a Condition of Community Supervision.** The Court ORDERS Defendant confined \_\_\_\_\_ days in \_\_\_\_\_ as a condition of community supervision. The period of confinement as a condition of community supervision starts when Defendant arrives at the designated facility, absent a special order to the contrary.

Execution / Suspension of Sentence

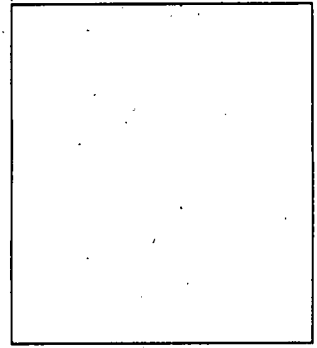
☒ The Court ORDERS Defendant's sentence EXECUTED. The Court FINDS that Defendant is entitled to the jail time credit indicated above. The attorney for the state, attorney for the defendant, the County Sheriff, and any other person having or who had custody of Defendant shall assist the clerk, or person responsible for completing this judgment, in calculating Defendant's credit for time served. All supporting documentation, if any, concerning Defendant's credit for time served is incorporated herein by this reference.

Furthermore, the following special findings or orders apply:

Date Judgment Entered: March 4, 2019

X  
Brandon Birmingham JUDGE PRESIDING

Clerk: Dalvarez



Right Thumbprint\*

\*Certificate of Thumbprint attached.

Cause No. F1550350-V

TRN 9191438284

THE STATE OF TEXAS

§

IN THE 292nd JUDICIAL



JUDGMENT  
CERTIFICATE OF THUMBPRINT

THE STATE OF TEXAS

CAUSE NO. F 1550350 -v

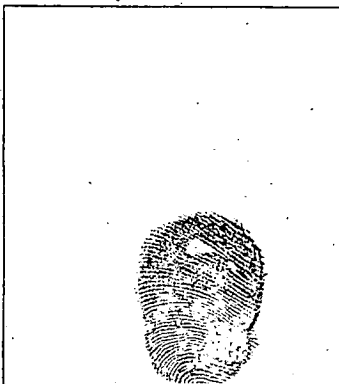
VS.

JUDICIAL 292nd

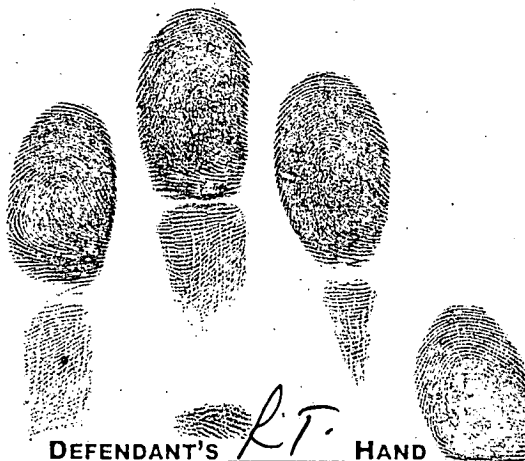
DISTRICT COURT #74

Stoyan Anastassov

DALLAS COUNTY, TEXAS



RIGHT THUMB



DEFENDANT'S R.T. HAND

THIS IS TO CERTIFY THAT THE FINGERPRINTS ABOVE ARE THE ABOVE-NAMED DEFENDANT'S FINGERPRINTS TAKEN AT THE TIME OF DISPOSITION OF THE ABOVE STYLED AND NUMBERED CAUSE.

DONE IN COURT THIS 28 DAY OF February, 2019.

D-1/Martin #839  
BAILIFF/DEPUTY SHERIFF

\*INDICATE HERE IF PRINT OTHER THAN DEFENDANT'S RIGHT THUMBPRINT IS PLACED IN BOX:

\_\_\_\_ LEFT THUMBPRINT

\_\_\_\_ LEFT/RIGHT INDEX FINGER

\_\_\_\_ OTHER, \_\_\_\_\_

SIGNED AND ENTERED ON THIS 28 DAY OF February, 2019.

[Signature]  
PRESIDING JUDGE

Certification of Defendant's Right of Appeal

No. F15-50350

The State of Texas

In the 292 Court

v. S. Anastassov

of

Dallas County, Texas

Defendant

TRIAL COURT'S CERTIFICATION OF DEFENDANT'S RIGHT OF APPEAL

I certify that this criminal case:

☒ is not a plea-bargain case, and the defendant has the right of appeal;

☐ is a plea-bargain case, but matters were raised by written motion filed and ruled on before trial and not withdrawn or waived, and the defendant has the right of appeal;

☐ is a plea-bargain case, but the trial court has given permission to appeal, and the defendant has the right of appeal;

☐ is a plea-bargain case, and the defendant has NO right of appeal;

☐ the defendant has waived the right of appeal.

Judge

Date Signed 2/28/19

I have received a copy of this certification. I have also been informed of my rights concerning any appeal of this criminal case, including any right to file a *pro se* petition for discretionary review pursuant to Rule 68 of the Texas Rules of Appellate Procedure. I have been admonished that my attorney must mail a copy of the court of appeals' judgment and opinion to my last known address and that I have only 30 days in which to file a *pro se* petition for discretionary review in the Court of Criminal Appeals. TEX. R. APP. P. 68.2, 68.3. I acknowledge that, if I wish to appeal this case and if I am entitled to do so, it is my duty to inform my appellate attorney, by written communication, of any change in the address at which I am currently living or any change in my current prison unit. I understand that, because of appellate deadlines, if I fail to timely inform my appellate attorney of any change in my address, I may lose the opportunity to file a *pro se* petition for discretionary review.

Defendant

Mailing address:

Telephone number:

Email Address (if any):

Defendant's Counsel

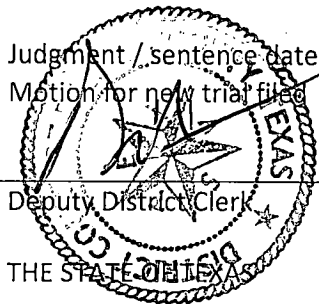
State Bar of Texas ID number:

Mailing address:

Telephone number:

Email Address:

\* See TEX. R. APP. P. 25.2(a)(2).



Judgment / sentence date  
Motion for new trial filed

2/28/19  
No ☐ Yes ☒ Date 3/27/19

Deputy District Clerk

2019 MAR 27 PM 3:57

FELICIA PITRE  
DISTRICT CLERK  
DALLAS CO., TEXAS

CAUSE NO. F 15-50350 -V

VS.

DEPUTY JUDICIAL 292nd DISTRICT COURT

STOYAN ALASTASSOV

DALLAS COUNTY, TEXAS

## DEFENDANT'S NOTICE OF APPEAL AND PAUPER OATH APPOINTMENT OF ATTORNEY ON APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Defendant in the above cause and states: I am the defendant in the above cause; I was convicted in this cause and now give Notice of Appeal to the Texas Court of Appeals for the Fifth Supreme Judicial District of Texas of Dallas, Texas, and that I am penniless, destitute and indigent person, too poor to employ counsel to represent me on the appeal, and too poor to pay for or give security for the Statement of Facts and a true copy thereof herein. WHEREFORE, I pray that the Court will appoint an attorney to represent me in this appeal and that the Court will order the Court Reporter of this Court to prepare and deliver me or my appointed Counsel the original and a true copy of the Statement of Facts in this case, together with all exhibits attached thereto if practical.

  
Defendant

BEFORE ME, the undersigned authority, personally appeared the above Defendant, known to me to be the person whose signature appears above, and after being duly sworn on oath states that he is the defendant in the above cause, and that the matters and things set forth in the foregoing are true and correct in all things.

Felicia Pitre  
District Clerk  
Dallas County, Texas

By

  
Deputy District Clerk

### ORDER

The Defendant having requested the Court to appoint Counsel, it is Ordered the Honorable

Michael Mowla

Address:

PO Box Bob Cedar Hill TX. 75106  
972 795 2401

a regular licensed and practicing attorney of Texas, be, and he/she is hereby appointed to represent Defendant in prosecuting his/her appeal herein, and it is further Ordered that the Court Reporter is hereby directed to transcribe all of the notes as same may appertain to his cause and as taken during the trial of this cause which began on \_\_\_\_\_ and make Statement of Facts in duplicate and furnish same to defendant or his appointed Counsel.

  
Judge

No. F15-50350

STATE OF TEXAS

v.

STOYAN K. ANASTASSOV

In the 292nd

District Court

Dallas County

**REQUEST FOR PREPARATION OF REPORTER'S RECORD AND  
DESIGNATION SPECIFYING MATTERS FOR INCLUSION IN CLERK'S RECORD**

**TO THE CLERK AND COURT REPORTER OF THE COURT:**

Defendant requests the court reporter or reporters who made the record in this cause to prepare a reporter's record, that the testimony included in the reporter's record be in question and answer form, and under Tex. Rule App. Proc. 34.5(a)(12) and 34.5(b), Defendant designates the following matters to be included in the Clerk's Record.

**Defendant designates that the following matters be included in the reporter's record:**

1. Testimony of all witnesses, heard in and outside the jury's presence, including questions and objections of counsel and the ruling and remarks of the Court made on such testimony;
2. Voir dire of jury venire, including objections of counsel and the ruling and remarks of the Court made on such voir dire and objections;
3. Arguments and opening and closing statements of counsel, including objections of counsel and the ruling and remarks of the Court made on such arguments and objections;
4. All matters heard outside the presence of the jury, including pretrial, trial and posttrial hearings, charge conferences and bench conferences, objections, rulings, and remarks of the Court made on such matters;

5. All bills of exception and testimony thereon, including objections of counsel, and the ruling and remarks of the Court made on such bills of exception and objections;

6. Testimony taken during sentencing proceedings, including arguments and objections of counsel, and the ruling and remarks of the Court made on such testimony and arguments;

7. Testimony taken during motion for new trial proceedings, including arguments and objections of counsel, and the ruling and remarks of the Court made on such testimony and arguments; and

8. All exhibits offered or introduced into evidence.

9. All exhibits offered or introduced for record purposes only.

**Defendant designates the following matters to be included in the Clerk's Record:**

1. Complaint;

2. Capias;

3. Affidavit of indigency;

4. Correspondence and communication between Court and counsel;

5. Indictment or Information;

6. All motions and pleadings filed by the state or the defendant and not otherwise required to be included under Tex. Rule App. Proc. 34.5(a);

7. All orders issued by Court and not otherwise required to be included under Tex. Rule App. Proc. 34.5(a);

8. Jury panel lists;

9. Jury strike lists of the state, the defendant and the Court;

10. Juror information forms;
11. All verdict forms submitted to the jury;
12. Judgment of Conviction, Order Granting Probation, or Order Granting Deferred

Adjudication;

13. Sentence;
14. Commitment;
15. Motion for New Trial;
16. Motion in Arrest of Judgment;
17. Communications between Court and jury;
18. Any orders pertaining to Continuing Jurisdiction Community Supervision (shock

probation);

19. Objections to Court's Charge and Special Requested Jury Instructions, and rulings

by the Court;

20. Rulings of the Court on all written bills of exception;
21. All exhibits admitted into evidence;
22. All defense exhibits offered into evidence but not received in evidence;
23. All other documents filed with the clerk;
24. Trial court's certification of the right to an appeal;
25. Designation of the clerk's record;
26. Request for preparation of the reporter's record;
27. All plea-bargain offers (whether they appear on "reset" or "pass-slips" or in other

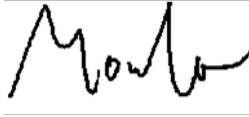
forms;

28. All documents from postjudgment or postconviction proceedings; and

29. Those items identified in Tex. Rule App. Proc. 34.5(a)(1) through (11), all other matters required by the Tex. Code Crim. Proc., or any other law.

Respectfully submitted,

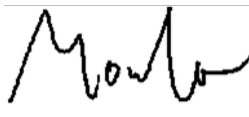
Michael Mowla  
P.O. Box 868  
Cedar Hill, TX 75106  
Phone: 972-795-2401  
Fax: 972-692-6636  
[michael@mowlalaw.com](mailto:michael@mowlalaw.com)  
Texas Bar No. 24048680  
Attorney for Defendant



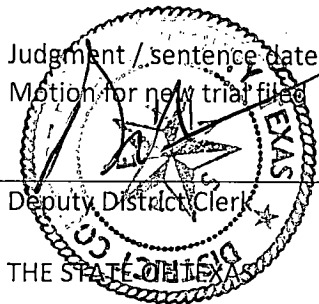
/s/ Michael Mowla  
Michael Mowla

**Certificate of Service**

I certify that on April 1, 2019, a copy of this document was served on the Dallas County District Attorney's Office, Appellate Division, by efile or email to [DCDAAppeals@dallascounty.org](mailto:DCDAAppeals@dallascounty.org).



/s/ Michael Mowla  
Michael Mowla



Judgment / sentence date  
Motion for new trial filed

2/28/19  
No ☐ Yes ☒ Date 3/27/19

Deputy District Clerk

2019 MAR 27 PM 3:57

FELICIA PITRE  
DISTRICT CLERK  
DALLAS CO., TEXAS

CAUSE NO. F 15-50350 -V

VS.

DEPUTY JUDICIAL 292nd DISTRICT COURT

STOYAN ANASTASSOV

DALLAS COUNTY, TEXAS

## DEFENDANT'S NOTICE OF APPEAL AND PAUPER OATH APPOINTMENT OF ATTORNEY ON APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Defendant in the above cause and states: I am the defendant in the above cause; I was convicted in this cause and now give Notice of Appeal to the Texas Court of Appeals for the Fifth Supreme Judicial District of Texas of Dallas, Texas, and that I am penniless, destitute and indigent person, too poor to employ counsel to represent me on the appeal, and too poor to pay for or give security for the Statement of Facts and a true copy thereof herein. WHEREFORE, I pray that the Court will appoint an attorney to represent me in this appeal and that the Court will order the Court Reporter of this Court to prepare and deliver me or my appointed Counsel the original and a true copy of the Statement of Facts in this case, together with all exhibits attached thereto if practical.

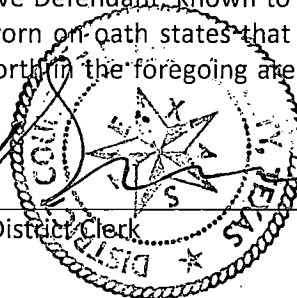
  
Defendant

BEFORE ME, the undersigned authority, personally appeared the above Defendant, known to me to be the person whose signature appears above, and after being duly sworn on oath states that he is the defendant in the above cause, and that the matters and things set forth in the foregoing are true and correct in all things.

Felicia Pitre  
District Clerk  
Dallas County, Texas

By

Deputy District Clerk



### ORDER

The Defendant having requested the Court to appoint Counsel, it is Ordered the Honorable

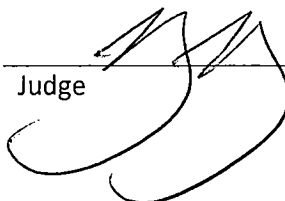
Michael Mowla

Address:

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972 795 2401

a regular licensed and practicing attorney of Texas, be, and he/she is hereby appointed to represent Defendant in prosecuting his/her appeal herein, and it is further Ordered that the Court Reporter is hereby directed to transcribe all of the notes as same may appertain to his cause and as taken during the trial of this cause which began on \_\_\_\_\_ and make Statement of Facts in duplicate and furnish same to defendant or his appointed Counsel.

Judge





STATE OF TEXAS	§	IN THE 292ND CRIMINAL
V.	§	DISTRICT COURT OF
STOYAN KALINOV ANASTASSOV	§	DALLAS COUNTY, TEXAS

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES STOYAN KALINOV ANASTASSOV, the Defendant in this indictment and its companion indictment and files this his motion seeking a new trial of all the charges against him, and for cause would show as follows:

## Background

The Defendant is the subject of two indictments filed in the 292nd Criminal District Court of Dallas County, Texas. Both indictments allege Indecency with a Child by Contact, to wit: Cause No. F15-50349-V;

“That **STOYAN KALINOV ANASTASSOV**, hereinafter called Defendant, on or about 24th day of December, 2011 in the County of Dallas, State of Texas, did unlawfully, with the intent to arouse and gratify the sexual desire of the defendant, engage in sexual contact with **SIMMONE SPIELMANN**, hereinafter called complainant, a child younger than 17 years and not then the spouse of the defendant, by contact between the hand of the defendant and the **GENITALS** of the complainant,”

Cause No. F15-50350-V:

“That **STOYAN KALINOV ANASTASSOV**, hereinafter called Defendant, on or about 24th day of December, 2011 in the County of Dallas, State of Texas, did unlawfully, with the intent to arouse and gratify the sexual desire of the defendant, engage in sexual contact with **SIMMONE SPIELMANN**, hereinafter called complainant, a child younger than 17 years and not then the spouse of the defendant, by contact between the hand of the defendant and the **BREAST** of the complainant,

On February 21, 2019, a jury was impaneled and sworn, both cases were tried together.

At the conclusion of the evidence, the Court charged the jury on each case individually. The jury found the Defendant guilty of both cases and assessed punishment at three (3) years TDC in F15-50350-V and nine (9) years TDC in F15-50349-V. The judgment and sentence on both cases were entered by the Court on February 28, 2019.

## II.

### Ground One

The trial court erred when it overruled Defendant's objection to the admissibility of the testimony of Natalie Holmes as extraneous bad conduct under Tex.R.Crim.Code 404(b). The witness was not underage at the time of her sexual conduct with the Defendant. Their conduct did not constitute a crime and it preceded the conduct alleged in these two indictments.

Witness Holmes's testimony was not relevant to an issue in the case. Rules 401 and 402, Tex.R.Ev. The probative value the testimony was substantially outweighed by the unfair prejudice of the testimony. Rule 403, Tex.R.Ev. The testimony constituted an admission of evidence of an extraneous crime, wrong, or other act that was being offered regarding, or had the effect of being evidence, the Defendant's character in violation of Rule 404(b), Tex.R.Ev. The admission of this evidence and the Court's failure to sustain the Defendant's objection affected the substantial rights of the Defendant and was harmful as evidenced by the jury's verdict.

## III.

### Ground Two

The trial court erred in entering a judgment of conviction of the Defendant for both indictments. Conviction for both indictments for conduct that arose out of a single incident violates the double jeopardy prohibitions against more than one conviction for the same conduct. Fifth Amendment, United States Constitution; Article I, Section 14, Texas Constitution; *Evans v. State*,

299 S.W.3d 138 (Tex.Crim.App. 2009); *Aekins v. State*, 497 S.W.3d 270 (Tex.Crim.App. 2014); *DeMoss v. State*, 12 S.W.3d 553, 561 (Tex.App.-San Antonio 1999); *Blockburger v. United States*, 284 U.S. 299 (1932).

IV.

Ground Three

Considering the testimony, the physical evidence, and the law, the verdict is contrary to the law and the evidence.

WHEREFORE, PREMISES CONSIDERED, the Defendant request that the Court grant him a new trial on each of the two indictments.

Respectfully submitted,

BURLESON, PATE & GIBSON, L.L.P.

*/s/ Tom Pappas*

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COUNSEL FOR DEFENDANT  
STOYAN KALINOV ANASTASSOV

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing motion was delivered by electronic filing to Brandie Wade, the Assistant District Attorney in charge, on this the 27th day of March, 2019.

*/s/ Tom Pappas*

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TOM PAPPAS

NO. F15-50350-V

STATE OF TEXAS	§	IN THE 292ND CRIMINAL
V.	§	DISTRICT COURT OF
STOYAN KALINOV ANASTASSOV	§	DALLAS COUNTY, TEXAS

**ORDER**

ON THIS DAY came on to be heard, the Defendant's Motion for New Trial, upon consideration of same the Court is of the opinion that said motion should be and the same is hereby:

GRANTED DENIED, to which action the Defendant timely noted an objection.

SIGNED this \_\_\_\_ day of \_\_\_\_\_ 2019.

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JUDGE PRESIDING